

REMARKS

This Application has been carefully reviewed in light of the Final Action mailed October 17, 2004. In order to advance prosecution of this Application, Claims 6, 18, 20, and 31 have been amended. Applicant respectfully requests reconsideration and favorable action for this Application.

Claims 1, 3, 5, and 10 stand rejected under 35 U.S.C. §102(e) as being anticipated by Johnstone. Independent Claim 1 recites ". . . aggregating the ingress traffic streams into a single combined traffic stream without regard to any destination address of any packet from any ingress traffic stream" By contrast, the Johnstone patent merely discloses the use of a multiplexor at its broadband access point router. The only disclosed multiplexing technique provided in the Johnstone patent is associated with multiplexing DS1 facilities onto DS3 facilities. Moreover, the Johnstone patent discloses the use of permanent virtual circuits to define a dedicated path for connection with the broadband access point. Further, the Examiner has failed to cite any language from the Johnstone patent that discloses any capability to aggregate ingress traffic streams into a single combined traffic stream without regard to any destination address of any packet from any ingress traffic stream. Accordingly, there is no support in the Johnstone patent for the assumptions made by the Examiner. Thus, the Johnstone patent hardly provides for aggregation of a plurality of ingress traffic streams onto a single combined traffic stream without regard to any destination address of any packet from any ingress traffic stream as required by the claimed invention. Therefore, Applicant respectfully submits that Claims 1, 3, 5, and 10 are not anticipated by the Johnstone patent.

Claims 26-28, 30 and 35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Johnstone. Independent Claim 26 has similar limitations shown above to be patentably distinct from the Johnstone patent. Therefore, Applicant respectfully submits that Claims 26-28, 30, and 35 are patentably distinct from the Johnstone patent.

Claims 6, 7, 12-14, 20, 22, 23, 31, 33, and 37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Johnstone in view of Nogami, et al. Independent Claim 1, from which Claims 6, 7, and 12-14 depend, has been shown above to be patentably distinct from the Johnstone patent. Independent Claim 20, with dependent Claims 22 and 23, has similar limitations shown above to be patentably distinct from the Johnstone patent. Independent Claim 26, from which Claims 30, 33, and 37 depend, has been shown above to be patentably distinct from the Johnstone patent. Moreover, the Nogami, et al. patent does not include any additional disclosure combinable with the Johnstone patent that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 6, 7, 12-14, 20, 22, 23, 30, 33, and 37 are patentably distinct from the proposed Johnstone - Nogami, et al. combination.

Claims 4 and 29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Johnstone in view of Nogami, et al. and further in view of Isoyama. Independent Claim 1, from which Claim 4 depends, and Independent Claim 26, from which Claim 29 depends, have been shown above to be patentably distinct from the proposed Johnstone - Nogami, et al. combination. Moreover, the Isoyama patent does not include any additional disclosure combinable with the Johnstone or Nogami, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits

that Claims 4 and 29 are patentably distinct from the proposed Johnstone - Nogami, et al. - Isoyama combination.

Claims 11 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Johnstone in view of Kaycee. Independent Claim 1, from which Claim 11 depends, has been shown above to be patentably distinct from the Johnstone patent. Independent Claim 16 has similar limitations shown above to be patentably distinct from the Johnstone patent. Moreover, the Kaycee patent does not include any additional disclosure combinable with the Johnstone patent that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 11 and 16 are patentably distinct from the proposed Johnstone - Kaycee combination.

Claims 18 and 36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Johnstone in view of Kaycee and further in view of Nogami, et al. Independent Claim 16, from which Claim 18 depends, and Independent Claim 26, from which Claim 36 depends, have been shown above in various forms to be patentably distinct from the proposed Johnstone - Kaycee combination. Moreover, the Nogami, et al. patent does not include any additional disclosure combinable with the Johnstone or Kaycee patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 18 and 36 are patentably distinct from the proposed Johnstone - Kaycee - Nogami, et al. combination.

Claims 9, 15, 21, 32, 38, and 40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Johnstone in view of Nogami, et al. and further in view of Milles. Independent Claim 1, from which Claims 9 and 15 depend; Independent Claim 20, from which Claim 21 depends; and Independent Claim 26,

from which Claims 32, 38, and 40 depend, have been shown above to be patentably distinct from the proposed Johnstone - Nogami, et al. combination. Moreover, the Milles patent does not include any additional disclosure combinable with the Johnstone or Nogami, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 9, 15, 21, 32, 38, and 40 are patentably distinct from the proposed Johnstone - Nogami, et al. - Milles combination.

Claim 19 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Johnstone in view of Nogami, et al. and Kaycee and further in view of Milles. Independent Claim 16, from which Claim 19 depends, has been shown above to be patentably distinct from the proposed Johnstone - Nogami, et al. combination. Moreover, the Kaycee and Milles patents do not include any additional disclosure combinable with the Johnstone or Nogami, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claim 19 is patentably distinct from the proposed Johnstone - Nogami, et al. - Kaycee - Milles combination.

Claims 24 and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Johnstone in view of Nogami, et al. and further in view of Isoyama. Independent Claim 20, from which Claims 24 and 25 depend, has been shown above to be patentably distinct from the proposed Johnstone - Milles combination. Moreover, the Isoyama patent does not include any additional material combinable with either the Johnstone or Nogami, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 24 and 25 are patentably

distinct from the proposed Johnstone - Nogami, et al. - Isoyama combination.

Claims 6, 18, 20, and 31 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 6, 18, 20, and 31 have been amended to address matters raised by the Examiner. Therefore, Applicant respectfully submits that Claims 6, 18, 20, and 31 are in accordance with 35 U.S.C. §112, second paragraph.

Claim 30 stands objected to for various informalities. Claim 30 is consistent with Applicant's specification at page 19, lines 8-15, thereof.

This Response to Examiner's Final Action is necessary to address the Examiner's interpretation of the cited art in support of the rejections to the claims. This Response to examiner's Final Action could not have been presented earlier as the Examiner has only now provided an interpretation of the cited art in view of Applicant's previous response.

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other apparent reasons, Applicant respectfully requests allowance of all pending claims.

No additional fee is believed to be due. However, the Commissioner is hereby authorized to charge any fees and credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,
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A handwritten signature in black ink, appearing to read "Charles S. Fish", with a stylized flourish at the end.

Charles S. Fish
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